

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

GEORGE SAADI, an individual,

Plaintiff,

vs.

OMNI ENTERTAINMENT, INC., a
California corporation, and **DOES 1-10**,
inclusive,

Defendants.

CASE NO. CV 06-02869 DSF (JCx)

Complaint filed 05/11/06

Case Assigned to
Hon. Dale S. Fischer,
U.S. District Judge

**FINDINGS, CONCLUSIONS
AND ORDER RE: CONTEMPT**

Hearing Date: 02/23/2009

Time: 11:00 a.m.

Courtroom: 840- Roybal Bldg.

1 On February 23, 2008, in Courtroom 840 of the above-captioned Court, U.S.
 2 District Judge Dale S. Fischer presiding, this matter came for hearing pursuant to the
 3 “Findings, Certification and Order to Show Cause Re: Contempt,” issued by
 4 Magistrate Judge Jacqueline Chooljian dated January 6, 2009, and thereafter
 5 personally served upon judgment debtor Omni Entertainment, Inc., a California,
 6 corporation, and Steven (aka Stephen) Pina, its President. Present at the hearing
 7 were Alan G. Dowling, Esq., counsel for Plaintiff George Saadi, and Steven Pina,
 8 President of Omni Entertainment, Inc., a California corporation. The Court, having
 9 heard the oral argument of all present at the hearing, being familiar with the record
 10 of this action, and on the basis thereof having found good cause why these Findings,
 11 Conclusions and Order should issue,

12 THE COURT FINDS that:

- 13 1. Judgment by Default was entered against Defendant Omni Entertainment,
 14 Inc., a California corporation, in the within action on August 10, 2007;
- 15 2. On November 3, 2008, this Court executed, filed and entered its “Order[s]
 16 Granting Plaintiff’s Application for Order and Appearance of Judgment
 17 Debtor” as to Omni Entertainment, Inc., a California corporation, and
 18 “Omni Entertainment, Inc., a California corporation—Steven Pina,
 19 President” (the “Orders”), directing them to personally appear on
 20 December 23, 2008, at 9:30 a.m., in Courtroom 20 of the above-captioned
 21 Court, located at 312 N. Spring St., Los Angeles, CA 90012, to furnish
 22 information to aid in the enforcement of a money judgment against the
 23 Judgment Debtor. The Orders each stated, in pertinent parts:

24 **“NOTICE TO JUDGMENT DEBTOR: IF YOU FAIL TO**
 25 **APPEAR AT THE TIME AND PLACE SPECIFICED IN THIS**
 26 **ORDER, YOU MAY BE SUBJECT TO ARREST AND**
 27 **PUBISHMENT FOR CONTEMPT OF COURT, AND THE COUR**
 28

1 MAY MAKE AN ORDER REQUIRING YOU TO PAY THE
2 REASONABLE ATTORNEYS' FEES INCURRED BY THE
3 JUDGMENT CREDITOR IN THIS PROCEEDING. See California
4 Code of Civil Procedure, Section 708.110(e)." (Emphases in original);

- 5 3. On November 26, 2008, Plaintiff's counsel, Alan G. Dowling, Esq., issued
6 a "Subpoena in a Civil Case" to each of Judgment Debtor Omni
7 Entertainment, Inc., a California corporation, and "Omni Entertainment,
8 Inc., a California corporation—Stephen Pina, President," likewise
9 instructing Judgment Debtor Omni Entertainment, Inc., a California
10 corporation, and "Omni Entertainment, Inc., a California corporation—
11 Steven Pina, President" (the "Subpoenas"), to appear on December 23,
12 2008, at 9:30 a.m., in Courtroom 20 of the above-captioned Court, located
13 at 312 N. Spring St., Los Angeles, CA 90012, to testify in this action, and
14 to produce and permit inspection and copying of certain designated
15 documents or objects at such place, date and time;
- 16 4. Plaintiff's proofs of service establish that on December 3, 2008, Judgment
17 Debtor Omni Entertainment, Inc., a California corporation, and "Omni
18 Entertainment, Inc., a California corporation—Steven Pina, President,"
19 were each served with the foregoing Orders and Subpoenas, as well as
20 with copies of the Court's Judgment by Default, entered on August 10,
21 2007, and the Court's "Civil Minutes-General," dated August 8, 2007, by
22 personal service of the same upon Stephen Pina, President of Omni
23 Entertainment, Inc., a California corporation;
- 24 5. On December 23, 2008, in Courtroom 20 of the above-captioned Court,
25 this matter came on for hearing and judgment debtor examination,
26 pursuant to the aforesaid Orders and Subpoenas. The case was called
27 twice, at 9:47 a.m. and again at 10:20 a.m., and although Plaintiff (the
28 Judgment Creditor) was present by his counsel Alan G. Dowling, Esq.,

1 there was no appearance by or for either Judgment Debtor Omni
2 Entertainment, Inc., a California corporation, or Steven Pina, President of
3 Omni Entertainment, Inc., a California corporation;

4 6. On December 23, 2008, this Court issued its “Civil Minutes-General”
5 pertaining to the foregoing events and facts;

6 7. On January 6, 2009, Magistrate Judge Jacqueline Chooljian issued her
7 “Findings, Certification and Order to Show Cause Re: Contempt,” which
8 in pertinent part found that the failure of Judgment Debtor Omni
9 Entertainment, Inc., a California corporation, and “Omni Entertainment,
10 Inc., a California corporation—Stephen Pina, President,” to appear on
11 December 23, 2008, at 9:30 a.m., in Courtroom 20 of the above-captioned
12 Court, located at 312 N. Spring St., Los Angeles, CA 90012, to testify in
13 this action, and to produce and permit inspection and copying of certain
14 designated documents or objects at such place, date and time, constituted
15 acts in contempt of court, and ordered that Judgment Debtor Omni
16 Entertainment, Inc., a California corporation, and Steven [or Stephen]
17 Pina, President of Omni Entertainment, Inc., a California corporation, and
18 each of them, appear personally before Hon. Dale S. Fischer, U.S. District
19 Judge, on February 23, 2009, at 11:00 a.m., in Courtroom 840 of the U.S.
20 District Court (Roybal Courthouse), located at 255 E. Temple St., Los
21 Angeles, CA 90012, and that they and each of them show cause, then and
22 there, why they and each of them should not be adjudged in contempt of
23 the Court, due to their failure to appear for examination and to produce
24 documents or objects for examination and copying on December 23, 2008,
25 pursuant the aforesaid Orders and Subpoenas;

26 8. Plaintiff’s proofs of service establish that on February 11, 2009, Judgment
27 Debtor Omni Entertainment, Inc., a California corporation, and “Omni
28 Entertainment, Inc., a California corporation—Steven Pina, President,”

1 were each served with the foregoing “Findings, Certification and Order to
2 Show Cause Re: Contempt,” dated January 6, 2009, by personal service of
3 the same upon Stephen Pina, President of Omni Entertainment, Inc., a
4 California corporation;

5 9. Judgment Debtor Omni Entertainment, Inc., a California corporation, and
6 Steven [or Stephen] Pina, President of Omni Entertainment, Inc., a
7 California corporation, and each of them, have failed to show cause why
8 they and each of them should not be adjudged in contempt of the Court,
9 due to their failure to appear for examination and to produce documents or
10 objects for examination and copying on December 23, 2008, pursuant the
11 aforesaid Orders and Subpoenas;

12 10. The failure of Judgment Debtor Omni Entertainment, Inc., a California
13 corporation, and Steven [or Stephen] Pina, President of Omni
14 Entertainment, Inc., a California corporation, and each of them, to appear
15 for examination on December 23, 2008, pursuant to the Court’s order that
16 they appear, and pursuant to subpoenas duly served, was willful
17 disobedience of a court order;

18 11. Plaintiff has reasonably incurred the sum total of \$7,979.00 in attorneys’
19 fees (at counsel’s regular hourly rate, which the Court finds to be
20 reasonable for purposes of this matter), and \$486.08 in costs (including
21 without limitation costs for service of subpoenas, court orders and other
22 documents in connection with the court proceedings conducted in this
23 matter on December 23, 2008, and February 23, 2009, and for the
24 appearance of a private court reporter at the proceeding on December 23,
25 2008.

26 On the basis of the foregoing Findings, the Court HEREBY CONCLUDES
27 that Judgment Debtor Omni Entertainment, Inc., a California corporation, and
28 Steven [or Stephen] Pina, President of Omni Entertainment, Inc., a California

1 corporation, and each of them, should be and hereby are held in civil contempt of
 2 this Court, under and pursuant to 28 U.S.C. 636(e)(6)(B)(iii), Cal. C.C.P. Sec.
 3 708.110(e), Local Rule 83-7 of this Court, and as an exercise of the inherent power
 4 of the Court to impose sanctions including, *inter alia*, a fine and an award of
 5 attorneys' fees and costs to Plaintiff [U.S. v. United Mine Workers of America
 6 (1947) 330 U.S. 258, 303-304, 67 S.Ct. 677, 701; Chambers v. NASCO, Inc. (1991)
 7 501 U.S. 32, 43, 111 S.Ct. 2123, 2132; F.D.I.C. v Maxxam, Inc. (5th Ci. 2008), 523
 8 F.3d 566, 590-593.]

9 NOW, THEREFORE, on the basis of the foregoing Findings and
 10 Conclusions, and the record of this action,

11 IT IS HEREBY ORDERED that Judgment Debtor Omni Entertainment, Inc.,
 12 a California corporation, and Steven [or Stephen] Pina, President of Omni
 13 Entertainment, Inc., a California corporation, and each of them, pay to the Court, on
 14 or before April 2, 2009, monetary sanctions in the sum total of \$500.00 (\$250.00
 15 with respect to each of the hearings conducted in this matter on December 23, 2008,
 16 and February 23, 2009, respectively);

17 IT IS FURTHER ORDERED that Judgment Debtor Omni Entertainment,
 18 Inc., a California corporation, and Steven [or Stephen] Pina, President of Omni
 19 Entertainment, Inc., a California corporation, and each of them, pay to Plaintiff
 20 George Saadi, as and for monetary sanctions including attorneys' fees and costs
 21 incurred in connection with the proceedings conducted in this matter on December
 22 23, 2008, and February 23, 2009, respectively), the sum total of \$8,465.08
 23 (\$7,979.00 in attorneys' fees, and \$486.08 in costs), such payment to be made to
 24 Plaintiff's counsel, Alan G. Dowling, Esq., on or before April 2, 2009;

25 IT IS FURTHER ORDERED that Judgment Debtor Omni Entertainment,
 26 Inc., a California corporation, and Steven [or Stephen] Pina, President of Omni
 27 Entertainment, Inc., a California corporation, and each of them, appear personally
 28 before Hon. Jacqueline Chooljian, U.S. Magistrate Judge, on March 6, 2009, at 9:00

1 a.m., in Courtroom 20 of the U.S. District Court (Spring St. Courthouse), located at
 2 312 N. Spring St., Los Angeles, CA 90012, and at such other time, place and
 3 circumstance as may be directed by the Magistrate Judge at that time, and that each
 4 of them, then and there, comply fully with the Court's Order(s) Granting Plaintiff's
 5 Application for Order and Appearance of Judgment Debtor, dated November 3,
 6 2008, and the subpoenas duces tecum, all previously served upon them on
 7 December 3, 2008, by producing at that time and place (or as otherwise directed by
 8 the Court), for inspection and copying, all documents and things called for by the
 9 said subpoenas, and by testifying to furnish information in enforcement of the
 10 money judgment against the said Judgment Debtor, Omni Entertainment, Inc., a
 11 California corporation, in the within action. (The Court notes that defendant has
 12 already appeared.)

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 14 Dated: 3/17/09



HON. DALE S. FISCHER,
 U.S. DISTRICT JUDGE

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 19 Proposed form of order submitted by:

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 21
 22 **ALAN G. DOWLING, ESQ.** (CA SBN # 070686)
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 28 **Attorneys for Plaintiff George Saadi**